

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.3360 Payroll Factor (IITA Section 304)

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.3360 Payroll Factor (IITA Section 304)

- a) In general.
 - 1) The payroll factor of the apportionment formula for each trade or business of an employer shall include the total amount paid by the employer in the regular course of its trade or business for compensation during the tax period.
 - 2) The total amount "paid" to employees is determined upon the basis of the employer's accounting method. If the employer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. The compensation of any employee on account of activities which are connected with the production of nonbusiness income shall be excluded from the factor.
 - A) Example A: A corporation uses some of its employees in the construction of a storage building which, upon completion, is used in the regular course of the corporation's trade or business. The wages paid to those employees are treated as a capital expenditure by the corporation. The amount of such wages is included in the payroll factor.
 - B) Example B: A corporation owns various securities which it holds as an investment separate and apart from its trade or business. The management of the corporation's investment portfolio is the only duty of Mr. X, an employee. The salary paid to Mr. X is excluded from the payroll factor.
 - 3) The term "compensation" is defined in 86 Ill. Adm. Code 100.3100 of these regulations.
 - 4) The term "employee" is defined in 86 Ill. Adm. Code 100.3100 of these regulations.
 - 5) In filing returns with this state, if the employer departs from or modifies the treatment of compensation paid used in returns for prior years, the employer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the employer with all states to which the employer reports under Article IV of the Multistate Tax Compact or the

Uniform Division of Income for Tax Purposes Act are not uniform in the treatment of compensation paid, the employer shall disclose in its return to this state the nature and extent of the variance.

- b) Denominator. The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the employer is immune from taxation, by Public Law 86-272 for example, is included in the denominator of the payroll factor. Example: A corporation has employees in its state of legal domicile (State A) and is taxable in State B. In addition the corporation has other employees whose services are performed entirely in State C where the corporation is immune from taxation by Public Law 86-272. As to these latter employees, the compensation will be assigned to State C where their services are performed (i.e., included in the denominator -- but not the numerator -- of the payroll factor) even though the corporation is not taxable in State C.
- c) Numerator. The numerator of the payroll factor is the total amount paid in this state during the tax period by the employee for compensation. The tests in IITA Section 304(a)(2) to be applied in determining whether compensation is paid in this state are derived from the Model Unemployment Compensation Act.
- d) Compensation paid in this state. The term "compensation paid in this state" is explained in 86 Ill. Adm. Code 100.3120 of these regulations.

(Source: Section repealed, new Section adopted at 6 Ill. Reg. 579, effective December 29, 1981)